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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
)  
Biennial Regulatory Review - Amendment ) WT Docket No. 98-20  
of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, )  
90, 95, 97, and 101 of the Commission's )  
Rules to Facilitate the Development and Use )  
of the Universal Licensing System in the )  
Wireless Telecommunications Services )

COMMENTS OF MOTOROLA, INC.

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## SUMMARY

Motorola, Inc. ("Motorola") hereby submits these comments in response to the *Notice of Proposed Rule Making* adopted by the Commission that seeks to implement the Wireless Telecommunications Bureau's Universal Licensing System.

As discussed in detail in these comments, Motorola generally supports the Commission's efforts to consolidate and simplify the application procedures for licensed radio services. However, to further promote the efficiency of the FCC's licensing mechanisms, Motorola suggests that the Commission: (1) clarify certain aspects of electronic filings via the ULS and encourage the electronic filing of pleadings related to wireless applications wherever possible; (2) confirm that the distinction between major and minor modifications does not apply to applications for shared frequencies; (3) retain the existing 60-day period for amending or correcting applications; (4) send renewal notifications at least 120 days in advance of the expiration of licenses; (5) clarify certain aspects of the proposal to discontinue the 30-day post-expiration reinstatement period; (6) use license status information in the ULS to announce that expired frequencies are available for licensing; (7) provide licensees 120 days' notice of construction deadlines; and (8) afford greater guidance for various aspects of the FCC Forms 601 and 603.

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**COMMENTS OF MOTOROLA, INC.**

**I. Introduction/Background**

Motorola, Inc. (“Motorola”) hereby submits these comments in response to the *Notice of Proposed Rule Making* (“*Notice*”) adopted by the Commission in the above-captioned proceeding on February 19, 1998.<sup>1</sup> The *Notice* solicits commenters’ views on a range of proposals to consolidate and streamline the rules governing application procedures for radio services licensed by the Wireless Telecommunications Bureau (“WTB” or “Bureau”).

As discussed in detail below, Motorola generally supports the Commission’s efforts to consolidate and simplify the application procedures for licensed radio services. To further promote the efficiency of the FCC’s licensing mechanisms, Motorola suggests that the Commission: (1) clarify certain aspects of electronic filings via the ULS and encourage the electronic filing of pleadings related to wireless applications wherever possible; (2) confirm

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<sup>1</sup> *Biennial Regulatory Review - Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission’s Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services*, FCC 98-28 (rel. March 18, 1998) (“*Notice*”).

that the distinction between major and minor modifications does not apply to applications for shared frequencies; (3) retain the existing 60-day period for amending or correcting applications; (4) send renewal notifications at least 120 days in advance of the expiration of licenses; (5) clarify certain aspects of the proposal to discontinue the 30-day post-expiration reinstatement period; (6) use license status information in the ULS to announce that expired frequencies are available for licensing; (7) provide licensees 120 days' notice of construction deadlines; and (8) afford greater guidance for various aspects of the FCC Forms 601 and 603.

## **II. Electronic Filing Requirements**

Motorola supports the Commission's proposal to mandate electronic filing of all forms for all wireless radio services, beginning January 1, 1999.<sup>2</sup> Motorola believes, however, that the Commission should clarify these requirements as applied to Private Land Mobile Radio Service ("PLMRS") applications. In particular, to ensure that PLMRS applicants reap the full benefits of the ULS, Motorola urges the Commission to make clear that an applicant may use the ULS to prepare an application and then send the application directly to the coordinator for certification. Once the coordinator certifies the application, the coordinator would then forward it to the Commission. Significantly, the *Notice* seemingly contemplates such a scheme by suggesting that mandatory electronic filing will benefit frequency coordinators as well as applicants and licensees.<sup>3</sup> In addition, other third parties (*i.e.*, engineering firms and law firms) are frequently consulted to assist in the preparation of license applications. Ensuring a

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<sup>2</sup> *Notice*, ¶ 21.

<sup>3</sup> *Id.*

seamless methodology for the sharing of information between such groups is obviously an intended result of the ULS.

The Commission should also ensure that sufficient safeguards are in place within the ULS to prevent users from circumventing frequency coordination when filing for new authorizations or making major modifications to existing licenses. Without such security, the Commission could be faced with improperly engineered systems that could cause harmful interference to properly coordinated licensees. Such preventive measures will also help protect the Commission's licensing database from fraudulent filings and inaccuracies.

### **III. Filing of Pleadings Associated with Wireless Applications**

The *Notice* asks whether the Commission should "allow" electronic filing, via the ULS, of pleadings regarding wireless radio service applications and solicits comment on whether the Commission should "permit" electronic filing of other Bureau pleadings not associated with an application or a docketed proceeding.<sup>4</sup> Motorola supports permitting, and even perhaps requiring, electronic filings via the ULS. Consistent with the FCC's goal of "making all licensing information available to interested parties and the public,"<sup>5</sup> electronic filing of pleadings would make it convenient for interested parties and the public to download all of the comments in a given proceeding.

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<sup>4</sup> *Notice*, ¶ 27.

<sup>5</sup> *Id.*, ¶ 21.

#### IV. Standardization of Major and Minor Filing Rules

In the *Notice*, the Commission proposes to standardize what constitutes “major” and “minor” amendments and modifications across all wireless radio services.<sup>6</sup> Motorola does not object to this standardization where applicable. Motorola does, however, urge the Commission to make clear that the distinction between “major” and “minor” amendments and modifications does not apply to filings for shared frequencies.

As indicated in the *Notice*, “the distinction between major and minor filings has significant procedural consequences in the application process, because a major amendment to an application causes the application to be considered newly filed, while a minor amendment generally has no impact on the filing date.”<sup>7</sup> Thus, this distinction is of critical importance with regard to applications for an exclusive frequency band because a major amendment will cause the application to receive a new receipt date. In contrast, with shared frequencies, such as the PLMRS frequencies below 470 MHz, the order in which a filing for a particular frequency is received has no bearing on the ultimate assignment of the spectrum because multiple parties can and do receive licenses to use shared frequencies as long as proper frequency coordination procedures are performed.

To ensure that existing procedures concerning the assignment of shared frequencies remain intact, Motorola requests the Commission to clarify that its proposed definitions for major modifications do not apply to shared frequencies. This will help guarantee that approval of applications for use of shared frequencies will not unnecessarily be delayed by distinctions

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<sup>6</sup> *Notice*, ¶¶ 34-41.

<sup>7</sup> *Id.*, ¶ 34.

between major and minor amendments and modifications that only have meaning where applications for exclusive allocations are at issue.

## **V. Returns and Dismissals of Incomplete or Defective Applications**

*Major Modifications of Applications for Shared Frequencies.* Because the distinction between major and minor amendments and modifications is without meaning for shared frequency applications, the Commission should also allow applicants for shared frequencies to amend or correct their application irrespective of whether the correction or amendment is “major” or “minor.” That is, if the applicant requesting use of a shared frequency resubmits its application within the time provided by the Commission and follows all appropriate frequency coordination procedures, the applicant should retain its place in the processing queue irrespective of the type of modification required to correct the application.

*Time Period for Amending or Correcting Applications.* In the *Notice*, the Commission proposes to shorten the period in which an applicant may correct or amend its application from 60 days from the date of notification of the error or omission to only 30 days.<sup>8</sup> Motorola opposes this proposed change and urges the Commission to retain the existing time of 60 days for the resubmission of returned applications.<sup>9</sup> As detailed below, thirty days is often insufficient to resubmit a returned application, particularly with regard to applications for PLMRS frequencies, which require certification from frequency coordinators.<sup>10</sup>

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<sup>8</sup> *Notice*, ¶ 53.

<sup>9</sup> *See*, 47 C.F.R. § 1.959.

<sup>10</sup> If the Commission does not retain the 60-day period for all applications, Motorola requests that, at a minimum, the agency retain the 60-day window for all PLMRS frequencies, or at least all PLMRS shared frequencies.



In Motorola's experience, PLMRS applicants often do not receive notification of an error or omission in their application for a considerable period of time following the return date of the application. In many instances, the Commission sends returned applications back to the frequency coordinator rather than directly to the applicant. In addition, there is often a delay between the return date and the date when coordinators convey receipt of the return notice to the licensee. Notably, there appears to be some delay even when the application was submitted electronically by the coordinator.<sup>11</sup> Furthermore, coordinators often do not immediately inform applicants of the return. Some coordinators have waited a week or more before notifying Motorola about a returned application.

Clearly, some of this delay could be alleviated if the notification is sent directly to the applicant or licensee instead of, or in addition to, the frequency coordinator. However, at least until the Commission has in place a system capable of ensuring that the applicant receives notice on or about the date on which the Commission sends the notification of an error or omission, the time period for making corrections or amendments to an application should remain 60 days.

## **VI. Discontinuance of "Reinstatement" Applications**

***120-Day Notification.*** As recognized in the *Notice*, the 30-day reinstatement period was instituted for PLMRS and Fixed Microwave Service licensees because of the large number of late-filed renewal applications.<sup>12</sup> In view of these realities, Motorola suggests that, if the

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<sup>11</sup> If the application was filed manually, there is nearly always a 5-8 day delay between the return date and date of receipt by the coordinator.

<sup>12</sup> *Notice*, ¶ 55.

Commission repeals the reinstatement period currently available to PLMRS and Fixed Microwave Service licensees, the Commission should send the renewal notification at least 120 days in advance of the expiration of the license, rather than adhering to its existing 90-day notification policy.<sup>13</sup> The additional 30 days will compensate licensees for loss of the 30-day grace period and afford them the additional time needed to ensure that license renewals are timely filed.<sup>14</sup>

***Post-Expiration Reconsideration Procedures.*** In the *Notice*, the Commission suggests that, if it proceeds with its proposal to replace the 30-day post-expiration reinstatement period with automatic cancellation provisions, licensees whose licenses have automatically canceled for failure to file a timely renewal application would be permitted to file a petition for reconsideration of the cancellation or a new license application.<sup>15</sup> Motorola asks that these proposed procedures be clarified in the following respects. First, the *Notice* does not clearly state whether the licensee would have to file an application for a new authorization if the petition for reconsideration is granted. Second, the *Notice* fails to specify whether there is any difference between filing a petition for reconsideration or a new license application. Motorola urges the Commission to clarify the difference, if any, between the two processes. Relatedly, the Commission should make clear that, if the petition for reconsideration is granted, an application for a new authorization is not needed.

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<sup>13</sup> The *Notice* asks for comment on whether 90 days before expiration is the appropriate date on which to send renewal notices. *Notice*, ¶ 56.

<sup>14</sup> To ensure that the appropriate individuals receive prompt notification, the Commission should send the renewal notification to the person listed on lines 23-33 of Form 601 in addition to notifying the applicant. *See infra*, p. 11.

<sup>15</sup> *Notice*, ¶ 57.

*Use of ULS License Status Information for Expired Licenses.* In the *Notice*, the Commission proposes to release a Public Notice listing all license expirations determined to be final.<sup>16</sup> Motorola urges the Commission not to proceed with this proposal because, at least as far as PLMRS spectrum is concerned, issuance of a Public Notice identifying expired licenses would constitute an unnecessary use of FCC resources given the population of persons eligible for PLMRS frequencies and the role of coordinators in assigning this spectrum. These same considerations render announcement of final license expirations through the ULS wholly adequate. Moreover, based on prior experience, one unfortunate result of the announcement of expired licenses via Public Notice could well be an onslaught of applications from speculators and application mills. In addition to further exacerbating the misuse of Commission resources, procedures that run the risk of inviting speculative applications could result in a false reading of demand for particular uses because speculative filings do not reflect actual spectrum demand.<sup>17</sup>

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<sup>16</sup> *Id.*

<sup>17</sup> The Commission also suggests that it will issue a Public Notice announcing the cancellation of a license if a licensee fails to comply with a construction deadline. *Notice*, ¶ 60 (“the public [will] receiv[e] timely notification of terminations”). The *Notice* does not clearly indicate whether the Commission will issue a separate Public Notice listing the frequencies and announcing them as being available or simply note the termination on the publicly available database. Consistent with its recommendation with regard to cancellations resulting from a failure to timely renew, Motorola submits that the Commission should simply notify the public of the termination as a result of the failure to meet a construction deadline via a notation on the ULS.

## **VII. Notification of Construction and Coverage Requirements**

Motorola fully supports the Commission's proposal to provide licensees advance notice of upcoming construction deadlines.<sup>18</sup> To further guarantee that licensees may take full advantage of the Commission's notification process, Motorola suggests that the construction notice reminders be sent at least 120 days prior to the construction deadline. In addition, the notification should be sent, via the Postal Service (or via e-mail if the licensee so requests),<sup>19</sup> to *both* the applicant and the contact person listed in Items 23-33 on Form 601. These procedures will significantly increase the probability that the appropriate persons receive notification of the impending deadline in time to complete the licensee's construction obligations.

## **VIII. Consolidated Wireless Application Forms**

Motorola also supports the Commission's decision to consolidate the over 40 wireless application forms into five new forms.<sup>20</sup> As discussed below, however, a few items on the FCC Forms 601 and 603 require clarification.

***FCC Form 601.*** The instructions to the FCC Form 601 do not address the Commission's current practice of limiting PLMRS applicants from filing for more than six permanent locations per call sign.<sup>21</sup> The Commission should clarify whether this limitation is

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<sup>18</sup> *Notice*, ¶ 60.

<sup>19</sup> *Id.*, ¶ 60 n. 95.

<sup>20</sup> *Id.*, ¶ 14.

<sup>21</sup> *See* Specific Instructions for Schedule E, FCC Form 600, introductory text, Page 9.

still in effect or is intended to be eliminated with the implementation of the ULS and the new FCC Form 601.

**FCC Form 603.** The instructions accompanying the Form 603 do not specify whether a licensee must file a Form 601 in addition to the Form 603. In light of the Commission's goals in this proceeding,<sup>22</sup> it is apparent that only Form 603 need be filed to assign a license. To clear up any uncertainty, however, Motorola requests the Commission to clarify that a complete, full assignment of authorization only requires the filing of the FCC Form 603.

In addition, the instructions to Form 603 state that the assignee must also complete a Form 602. However, the instructions do not specify which wireless services must complete this form. Motorola requests the Commission to make clear that this requirement applies to auctionable services only, as indicated by the text of the *Notice*, and urges the Commission not to require PLMRS or Fixed Microwave Service licensees to complete the Form 602.<sup>23</sup> PLMRS licensees operate primarily on shared frequencies, while Fixed Microwave Service licensees that operate as private operational-fixed providers do not offer commercially competitive services. As such, it is unnecessary to require these licensees to complete the FCC Form 602 because their licensing activities do not affect competitive conditions or spectrum management by the Commission.<sup>24</sup>

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<sup>22</sup> *Notice*, ¶ 14.

<sup>23</sup> *Id.*, ¶ 48.

<sup>24</sup> *Id.*

## **IX. Conclusion**

Motorola commends the Commission's efforts to streamline the agency's wireless licensing procedures through use of the ULS and other related mechanisms. Consistent with the suggestions set forth in these comments, the Commission must, however, take steps to ensure that the ULS and other efforts to simplify wireless licensing do not result in inadvertent complications.

Respectfully submitted,

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